

of the subject merchandise from APSA, and 0.53 percent of the f.o.b. invoice price on all shipments of the subject merchandise from all other companies entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

Parties to the proceeding may request disclosure of the calculation methodology and interested parties may request a hearing not later than 10 days after the date of publication of this notice. Interested parties may submit written arguments in case briefs on these preliminary results within 30 days of the date of publication. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted seven days after the time limit for filing the case brief. Parties who submit written arguments in this proceeding are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument. Any hearing, if requested, will be held seven days after the scheduled date for submission of rebuttal briefs. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 355.38(e).

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under section 355.38(c), are due. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: July 26, 1995.

Susan G. Esserman,
Assistant Secretary for Import
Administration.

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[C-549-401]

Certain Textile Mill Products From Thailand; Preliminary Results of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of the Countervailing Duty Administrative

Review on Certain Yarn Products covered under the Suspended Investigation on Certain Textile Mill Products from Thailand.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of Certain Yarn Products covered under the suspended countervailing duty investigation on Certain Textile Mill Products from Thailand ("suspension agreement"). We have preliminarily determined that for the period May 18, 1992, through December 31, 1993, the signatories were not in violation of the suspension agreement. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: August 2, 1995.

FOR FURTHER INFORMATION CONTACT: Lisa Yarbrough or Jackie Wallace, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 482-3793.

SUPPLEMENTARY INFORMATION:

Background

On November 23, 1990, the Department published in the **Federal Register** (55 FR 48885) a notice terminating in part the suspension agreement on Certain Textile Mill Products from Thailand (50 FR 9837, March 12, 1985). On May 9, 1992, the Court of International Trade (CIT) held that the Department's termination was not in accordance with the law because the Department failed to strictly follow 19 CFR 355.25(d)(4). The Court of Appeals for the Federal Circuit (CAFC) affirmed the decision of the CIT on October 12, 1993, and instructed the Department to reinstate the suspension agreement. Subsequently, on October 22, 1993, the Department reinstated the suspension agreement, effective May 18, 1992, the date the Department published notice of the CIT decision.

On March 4, 1994, the Department published in the **Federal Register** a notice of "Opportunity to Request Administrative Review" (59 FR 10368) of the suspended investigation for the period May 18, 1992 to December 31, 1993. The Department received requests for an administrative review of certain yarn products on March 31, 1994, from the American Yarn Spinners Association (AYSA) and certain individual yarn producers. On April 15, 1994, the Department initiated a countervailing duty administrative review on Certain Yarn Products for the period May 18, 1992 to December 31, 1993 (59 FR 18099, April 15, 1994). The

Department verified the responses of the Royal Thai Government (RTG) and the Thai Textile Manufacturers Association (TTMA) from January 16 through January 25, 1995 pursuant to the administrative review.

Due to prior analysis of interested party status of AYSA in 1990, the Department initiated this review on certain yarn products only for the period May 18, 1992, through December 31, 1993 (FR 59 18099, April 15, 1994). The review covers nine programs and eight producers/exporters: Saha Union, Venus Thread, Union Thread, Union Spinning, Thai Melon, Thai American, Thai Blanket, and Thai Synthetic.

Applicable Statute and Regulations

The Department is conducting this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act). Unless otherwise indicated, all citations to the statute and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Scope of Review

Imports covered by this review are shipments of certain yarns from Thailand. During the period of review, such merchandise was classifiable under the Harmonized Tariff Schedule (HTS) item numbers 5204.11.0000, 5204.19.0000, 5204.20.0000, 5206.21.0000, 5206.22.0000, 5206.23.0000, 5206.24.0000, 5206.25.0000, 5206.41.0000, 5206.42.0000, 5206.43.0000, 5206.44.0000, 5206.45.0000, 5207.10.0000, 5207.90.0000, 5401.10.0000, 5402.31.3000, 5402.32.3000, 5402.33.6000, 5406.10.0020, 5406.10.0040, 5406.10.0090, 5508.20.0000, 5510.12.0000, 5510.90.4000, and 5511.30.0000.

Analysis of Programs

1. Electricity Discounts

Under Section II(b) of the suspension agreement, the producers and exporters are not to apply for, or receive, any discount on electricity rates provided by the electricity authorities of Thailand (the Electricity Generating Authority of Thailand (EGAT), Metropolitan Electricity Authority (MEA) or the Provincial Electricity Authority (PEA)) for exports of subject merchandise.

EGAT is the general producing authority of electricity in Thailand selling to regional authorities such as MEA and PEA. PEA and MEA in turn sell electricity to companies in their jurisdiction. This program was

terminated effective January 1, 1990. However, producers and exporters who applied for discounts on exports prior to January 1, 1990, are still eligible to receive residual benefits on those exports.

Based on our verification, we found that neither EGAT, MEA, or PEA provided residual benefits during the POR on exports of subject merchandise to the United States. See verification report dated June 1, 1995.

2. Repurchase of Industrial Bills

Under Section II(f) of the suspension agreement, the producers and exporters are not to apply for, or receive, any promissory notes from the Bank of Thailand (BOT) for exports of subject merchandise to the United States.

In 1988, this program was changed from "Rediscount of Industrial Bills" to "Repurchase of Industrial Bills" (see "Notification of the Bank of Thailand #2531 re: Repurchase of Industrial Bills 1988"). Under this program, companies can receive discounted financing for working capital on industrial bills for a period of 120 days. This program operates similarly to the Export Packing Credit Program where companies can receive financing from a commercial bank or the Industrial Finance Corporation at interest rates of 10% or less. The BOT will then repurchase 50% of the bills from the commercial bank or Industrial Finance Corporation.

Based on our verification, we found the signatories subject to this review were not among those that applied for, or received, industrial bills for exports of subject merchandise to the United States during the POR. See verification report dated June 1, 1995.

3. Investment Promotion Act: Section 28, 31, 35, and 36

Under Section II (i) of the suspension agreement, the producers and exporters are to notify the Department in writing prior to applying for, or receiving, benefits under the Investment Promotion Act on shipments exported to the United States.

The Investment Promotion Act of 1977 (IPA) is a general act, administered by the Board of Investment (BOI), that allows for the promotion of different industries selected for development assistance by the BOI. Under this program, producers and exporters must be granted a BOI license which enables them to receive various IPA benefits. Such benefits include the following:

Section 28—IPA Section 28 provides an exemption from payment of import duties on imported machinery.

Section 31—IPA Section 31 provides an exemption of juristic person income

tax on the net profit derived from the promoted activity.

Section 35—IPA Section 35 provides certain income tax benefits to firms located in investment promotion zones.

Section 36 (1)—IPA Section 36(1) allows companies an exemption from import duties on raw and essential materials used to produce goods for export.

Section 36 (4)—IPA Section 36(4) grants companies permission to deduct from taxable income an amount equal to 5% of the increase in export earnings over the previous year.

Based on our verification, we found no indication of signatories receiving benefits under these programs during the POR. See verification report dated June 1, 1995.

4. International Trade Promotion Fund

Under Section II(h) of the suspension agreement, the producers and exporters are to notify the Department in writing prior to applying for or accepting any new benefit which is, or is likely to be, a countervailable bounty or grant on shipments of subject merchandise exported, directly or indirectly, to the United States. Although the Department has never determined this program to be countervailable, we reviewed this program in the administrative review.

This program, governed by the "Rule on Administration of the International Trade Promotion Fund (ITPF), B.E. 2532 (1989)," promotes and develops Thai exports worldwide through incoming and outgoing trade missions. The ITPF provides training and seminars for exporters, and publicity through public advertisements.

Based on our verification, we confirmed that Saha Union and its relateds (Union Spinning, Union Thread, and Venus Thread) participated in an international trade fair, promoting subject merchandise. Saha Union and its related companies paid their own expenses to participate in the trade fair. See verification report dated June 1, 1995.

5. Export Processing Zones

Under Section II (i) of the suspension agreement, producers and exporters shall notify the Department in writing prior to making an application to locate in an Export Processing Zone.

This program is governed by the "Industrial Estates Authority of Thailand Act, B.E. 2522, 1979." Under this program, a company must apply to the Industrial Estate Authority of Thailand (IEAT) for permission to locate in an export processing zone (EPZ). All EPZ's are located inside an industrial estate. Companies located within an

EPZ can receive import duty exemptions on equipment and raw materials, and exemption of export duties on exported goods.

Based on our verification, we found no use of this program by signatories to the suspension agreement. See verification report dated June 1, 1995.

6. Duty Drawback

Under Section II (c) of the suspension agreement, exporters and producers are not to apply for, or receive, rebates on shipments of subject merchandise in excess of the import duties paid on items that are physically incorporated into exported products.

Under this program, Thai Customs will refund import duties paid on imported goods used in the production of an exported product. In order to qualify for duty drawback, the goods must be exported through an authorized port, the exports must be shipped within one year of the date of importation of the goods on which drawback is claimed, and the producer/exporter must request drawback within six months of the date of exportation of the goods.

During the POR, Saha Union, Union Spinning, Union Thread, Venus Thread, and Thai Melon used duty drawback on exported goods of subject merchandise to the United States. Based on verification, we found that the amount of drawback received was not in excess of the items physically incorporated into the exported product. See verification report dated June 1, 1995.

7. Double Deduction for Foreign Marketing Expenses

Under Section II (e) of the suspension agreement, the producers and exporters are not to apply for, or receive, the double deduction of foreign marketing expenses for income tax purposes or financing on concessionary terms from the BOT on exports of subject merchandise.

From 1978 through 1981, the BOI granted trading companies a benefit on the double deduction of foreign marketing expenses from taxable income. In order to receive this benefit, a company had to be promoted through the BOI. This program was terminated in 1981 "BOI Announcement No. 1/2524."

Based on verification, we found no use of this benefit. See verification report dated June 1, 1995.

8. Tax Certificates

Under Section II (c) of the suspension agreement, the producers and exporters can apply or receive tax certificates on shipments of subject merchandise

exported directly or indirectly to the United States for import duties paid on items that are physically incorporated into exported products. If the producers and exporters apply for tax certificates in excess of the items physically incorporated, the suspension agreement requires that the producers and exporters repay to the RTG, in an annual adjustment, the amount in which the tax certificates exceed the import duties on physically incorporated inputs.

Tax certificate applications are made on a shipment by shipment basis after the producer/exporter receives payment for its shipment. The application can include up to 10 shipments and must be submitted within one year of the shipment date. Exporters can apply for an extension if they do not meet the one year deadline.

The law governing this program is the "Tax and Duty Compensation of Exported Goods Produced in the Kingdom Act, B.E. 2524 (1981)." Effective January 1, 1992, new nominal rebate rates were established for all products by the Committee on Tax and Duty Rebates for Exported Goods Produced in the Kingdom. The new nominal rates applicable to signatories are categorized by the following sectors: spinning, weaving, made-up textile goods, and knitting. Because nominal rates are in excess of the physically incorporated inputs, the Department has calculated, and requested that the RTG implement non-excessive rates. See verification report dated September 15, 1994, and letter from Roland L. MacDonald to Arthur J. Lafave III dated November 15, 1994.

Thai Melon, Thai American, Thai Synthetic, and Thai Blanket have applied for tax certificates at nominal rates during the period of review (POR). The Department will require that these companies repay the RTG, in an annual adjustment, the amount in which the tax certificates exceed the import duties on physically incorporated inputs. See verification report dated June 1, 1995.

9. Export Packing Credits

Under Section II (a) of the suspension agreement, the producers and exporters are not to apply for, or receive, Export Packing Credits (EPCs) from the BOT that permit the rediscounting of promissory notes arising from shipments of subject merchandise to the United States.

EPCs are pre-shipment short-term loans available to exporters for a maximum of 180 days from the date of issuance. Under the EPC program, commercial banks issue loans based on promissory notes from creditworthy exporters. Such notes have to be

supported by an irrevocable letter of credit, a sales contract, a purchase order, or a warehouse receipt. The commercial bank will then resell 50% of the promissory note to the BOT at a lower interest rate. The maximum interest rate a commercial bank can charge the exporter is 10% per annum.

If an exporter does not fulfill the contract by the due date of the EPC, the BOT will automatically charge the commercial bank a penalty interest rate. The commercial bank will then pass this penalty onto the exporter. The penalty interest rate is 6.5% per annum calculated over the full term of the loan. However, penalties can be refunded if the exporter ships the merchandise within 60 days after the due date. If only a portion of the goods is shipped by the due date, the exporter receives a partial refund in proportion to the value of the goods shipped.

Based on our verification, we found that Thai Melon and Thai American did use this program for exports of certain yarns to the United States during the review period. See verification report dated June 1, 1995.

The Department has calculated a subsidy rate for EPCs received by Thai Melon and Thai American for this administrative review. We first computed the total benefit received on the export packing credits. We then calculated a company specific subsidy rate for Thai Melon and included Thai American in the company rate because it is a related party. Next, we weight-averaged the benefit rate received by the company by its share of total exports of subject merchandise to the United States. The net subsidy received on EPCs for this administrative review is 0.19%.

Preliminary Results of Review

As a result of our review, we preliminarily determine that for the period May 18, 1992 through December 31, 1993, the signatories were not in violation of the suspension agreement. Due to the unusual circumstances surrounding this case and the reinstatement of the suspension agreement, we do not consider the calculation of EPCs in this POR to constitute a violation of the agreement within the meaning of 19 CFR Section 355.19 (d)(1994). However, we note that Section II (a) of the suspension agreement prohibits participation by any signatory in the EPC program at noncommercial rates and terms for subject merchandise. Thus, in future reviews, the signatories shall follow Section II (a) of the suspension agreement or they will be found in violation of the agreement.

For those signatories who received tax certificates in excess of the import duties paid on items physically incorporated into exports of subject merchandise, we will require that they repay to the RTG, in an annual adjustment, any amount by which the tax certificates exceed the amount of import duties on physically incorporated inputs. The annual adjustment shall be calculated in accordance with Section II c(i)(ii) of the suspension agreement.

Parties to the proceeding may request disclosure of the calculation methodology and interested parties may request a hearing not later than 10 days after the date of publication of this notice.

Interested parties may submit written arguments in case briefs on these preliminary results within 30 days of the date of publication, in accordance with 19 CFR 355.38(c)(1994). Rebuttal briefs, limited to arguments raised in case briefs, may be submitted seven days after the time limit for filing the case brief, in accordance with 19 CFR 355.38(d)(1994). Any hearing, if requested, will be held seven days after the scheduled date for submission of rebuttal briefs (19 CFR 355.38(f)(1994)). Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 355.38(e)(1994). Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under 19 CFR 355.38(c)(1994), are due. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any case or rebuttal brief, or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)(1994)) and 19 CFR 355.22(1994).

Dated: July 26, 1995.

Susan G. Esserman,

Assistant Secretary for Import Administration.

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